IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.54 OF 2005
IN
FAMILY COURT APPEAL NO.57 OF 2004

Sou. Hema Ravishankar ..Applicant

V/s.

Sri K.R.Ravishankar ..Respondent

Ms.Sonal alongwith Mr.J.B.Chinoy i/by Mr.A.K.Bakshi for the applicant.

Ms.Suhasini Mutalik i/by Mr.J.G.Reddy for the Respondent.

Coram : R.M.LODHA &
R.S.MOHITE,JJ

Date : 22.02.2005.

PC

. Heard the learned Counsel for the applicant.

2. By means of this application, the applicant prays that the order dated 18.10.2004 passed by this Court in Civil Application No.82 of 2004 in Family Court Appeal No.57 of 2004 be revoked and the applicant be continued to have the custody of minor child ‘Shrikrishna’.

3. The matrimonial dispute between the parties was subject matter of Petition No.605 of 2000 in the Family Court, Pune. By the Judgment and decree

dated 30.4.2004 the marriage between the parties has been dissolved. The custody of male minor child 'Shrikrishna' born out of the wed-lock was granted to the respondent herein. Dis-satisfied by the Judgment and decree dated 30.4.2004 the applicant had preferred an appeal before this Court being Appeal No.57 of 2004. The said Appeal has been admitted and pending for hearing. During the pendency of the Appeal, the applicant has accepted the decree of dissolution of marriage and the controversy in the appeal now is confined to the custody of the child. Initially by ad-interim order the operation of the Judgment and decree relating to the custody of the child was stayed. However, by order dated 18.10.2004 the ad-interim order came to be discharged and the present applicant was directed to hand over custody of minor child to the present respondent on 1.11.2004 at 11.00 A.M. The applicant was granted access right as per the direction contained in the order dated 18.10.2004. We find that the order dated 18.10.2004 came to be challenged by the present applicant before the Hon'ble Supreme Court in Petition for Special Leave to Appeal (Civil) No.22680 of 2004. By order dated 16.11.2004 the Hon'ble Supreme Court dismissed the Special Leave Petition as withdrawn. However, the time granted by this Court to make over custody of the child was extended upto 21.11.2004.

4. Now, the applicant wants revocation of the order dated 18.10.2004.

5. Inter alia, the grounds set out for revocation of the order are (one) that the school timing of the said child from the month of June-2005 would be 7.00 A.M. to 1.00 P.M. and that would match with the working time of the applicant; (two) the applicant shall take long leave until June-2005 from her present job so that the child is not left with the care of the servant ; (three) that if required, she will not hesitate to resign from the job provided maintenance and alimony is paid by the respondent for the applicant and for the child that may be fixed by the Court; (four) that the child is about 8 & 1/2 years old and is refusing to go to the respondent despite persuasion by the applicant; (five) that the wishes of the child were not considered and the custody of the said child was granted to the respondent against his wishes; (six) that the applicant has taken the child to a Psychologist and a Psychiatrist after 21.11.2004 and the said Psychologist and Psychiatrist opined that the child is happy and settled with the applicant but feels insecured of being forced to leave the applicant and (seven) that the current academic year is likely to be completed soon and the child desires to continue his studies in the same School and does not want to change his school.

6. We may notice at this stage that the order dated 18.10.2004 came to be passed by the bench of S.B.Mhase & R.S.Mohite,JJ. S.B.Mhase,J being on leave and in the light of the urgency expressed by the applicant, the Hon'ble the Chief Justice assigned the Civil Application for consideration by this bench.

7. Having heard the learned Counsel for the applicant, we are satisfied that none of the grounds set out by the applicant in the application justifies revocation or modification of the order dated 18.10.2004. In the order dated 18.10.2004 the Court noticed the access reports which indicated that during the meeting the child was free with the father and the relationship between the child and father was normal. In this backdrop, the ground that child is refusing to go to the respondent despite persuasion and that the child does not want to leave the applicant seems to be without any substance.

8. As regards the grounds that from June-2005 the school timings of the said child shall from 7.00 A.M. to 1.00 P.M. and would match with the college timings of the applicant and that the applicant is agreeable to take long leave from June-2005, we are of the view that these grounds have been set up to

deny the custody of the child to the respondent despite the order of this Court dated 18.10.2004.

9. Yet another ground that the child has been examined by the Psychologist and Psychiatrist and he opined that the child is happy with the applicant and feels insecured on being forced to leave his mother, suffice it to say that the applicant seems to be creating impediment in handing over the custody of the child to the respondent despite the order of the Court.

10. The rest of the grounds also do not pursuade to us to reopen the issue of custody at the interim stage pending appeal.

11. In our considered view, no ground for revocation or modification of the order dated 18.10.2004 is made out. Pertinently, as noticed above, the Special Leave Petition filed by the applicant challenging the order dated 18.10.2004 came to be dismissed by the Hon'ble Supreme Court as withdrawn vide Order dated 16.11.2004, though by the said order the date of handing over the custody of the child was extended from 1.11.2004 to 21.11.2004.

12. The application is accordingly dismissed.

(R.M.LODHA,J)

(R.S.MOHITE,J)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.247 OF 2004
IN
FAMILY COURT APPEAL NO.57 OF 2004

Sou. Hema Ravishankar ..Applicant

V/s.

Sri K.R.Ravishankar ..Respondent

Ms.Sonal alongwith Mr.J.B.Chinoy i/by Mr.A.K.Bakshi for the applicant.

Ms.Suhasini Mutalik i/by Mr.J.G.Reddy for the Respondent.

Coram : R.M.LODHA &
R.S.MOHITE,JJ

Date : 22.02.2005.

PC

. The learned Counsel for the applicant prays for withdrawal of the Civil Application in the light of the other Application No.54/2005 having been made by

the applicant.

2. Civil application is dismissed as withdrawn.

(R.M.LODHA,J)

(R.S.MOHITE,J)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.248 OF 2004
IN
FAMILY COURT APPEAL NO.57 OF 2004

Sou. Hema Ravishankar ..Applicant

V/s.

Sri K.R.Ravishankar ..Respondent

Ms.Sonal alongwith Mr.J.B.Chinoy i/by Mr.A.K.Bakshi for the applicant.

Ms.Suhasini Mutalik i/by Mr.J.G.Reddy for the Respondent.

Coram : R.M.LODHA &
R.S.MOHITE,JJ

Date : 22.02.2005.

PC
. Heard the learned Counsel for the applicant.

2. In paragraph-12 on page-7 of the order dated 18.10.2004 in Civil Application No.82 of 2004 the name of the school where the child 'Srikrishna'

studies be read as "Vivek Vidyalaya, New Sidharth Nagar, Goregaon (West), Mumbai-400 062" in place of ""Sri Ram Welfare Society's High School".

3. Order accordingly.

(R.M.LODHA,J)

(R.S.MOHITE,J)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.249 OF 2004
IN
FAMILY COURT APPEAL NO.57 OF 2004

Sou. Hema Ravishankar ..Applicant

V/s.

Sri K.R.Ravishankar ..Respondent

Ms.Sonal alongwith Mr.J.B.Chinoy i/by Mr.A.K.Bakshi for the applicant.

Ms.Suhasini Mutalik i/by Mr.J.G.Reddy for the Respondent.

Coram : R.M.LODHA &
R.S.MOHITE,JJ

Date : 22.02.2005.

PC

. The learned Counsel for the applicant prays for withdrawal of the Civil Application.

2. Allowed to be withdrawn.

(R.M.LODHA,J)

(R.S.MOHITE,J)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.56 OF 2005
IN
FAMILY COURT APPEAL NO.57 OF 2004

Sou. Hema Ravishankar ..Applicant

V/s.

Sri K.R.Ravishankar ..Respondent

Ms.Sonal alongwith Mr.J.B.Chinoy i/by Mr.A.K.Bakshi for the applicant.

Ms.Suhasini Mutalik i/by Mr.J.G.Reddy for the Respondent.

Coram : R.M.LODHA &
R.S.MOHITE,JJ

Date : 22.02.2005.

PC

. This Civil application is by way of speaking to the minutes of the order dated 4.2.2005. The said order came to be passed by the bench consisting of S.B.Mhase & R.S.Mohite,JJ. Since S.B.Mhase,J is on leave, on the praciepe taken out by the applicant, the Hon'ble the Chief Justice has directed the

aforesaid application to be placed before this bench.

2. In paragraph-1 of the order dated 4.2.2005 it is noticed thus :-

> "But we find that the said order has been confirmed by the Hon'ble Supreme Court and

> the Supreme Court had extended the time up to 21-11-2004 to hand over the child."

3. In place of what is noticed above, the following be read :-

> But we find that the said order came to be challenged by the applicant in Petition for Special Leave to Appeal (civil) No.22680/2004 and the said Special Leave Petition was dismissed as withdrawn ; though the time granted by this Court to make over the custody of the child was extended to 21-11-2004.

4. Order accordingly.

(R.M.LODHA,J)

(R.S.MOHITE,J)